

**REMARKS**

In the Office Action, the Examiner indicated that claims 1 through 26 are pending in the application and the Examiner rejected all claim.

**The Objections to the Drawings and Specification**

On page 2 of the Office Action, the Examiner objected to the Drawings for including the reference character “S8” and objected to the Specification for referring to “Step S10” instead of “Step S8”. The Applicant has amended page 9, line 20 of the specification to delete “S10” and insert “S8”. The Applicant respectfully requests that the Examiner reconsider and withdraw the objection to the drawings and specification in view of the aforementioned amendment.

**Rejection of Claims under 35 U.S.C. §101**

On page 3 of the Office Action, the Examiner rejected claims 1-10 under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicant has amended independent claims 1 and 8 to overcome this rejection. The Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-10 under 35 U.S.C. §101.

**Claim Rejections, 35 U.S.C. §103**

On page 6 of the Office Action, the Examiner rejected claims 1-26 as being unpatentable over Jones (“Working Without Wires,” *Industrial Distribution*, p. M6, M8-M9, August 1999) in view of U.S. Patent No. 5,995,015 to DeTemple et al.

**The Present Invention**

The present invention provides a method and system for using RFID tagged items carried on persons to infer the identity of the persons. The identity information can be used to provide targeted advertising and to improve existing store systems and tracking systems.

In one embodiment, previous purchase records of persons (e.g., customers) who shop at a store are collected by POS terminals and stored in a transaction database. When a person carrying or wearing items having RFID tags therein enters the store or other designated area, a RFID tag scanner located therein scans the RFID tags on that person and reads non-unique RFID tag information. The non-unique RFID tag information collected from the items carried by the person is correlated with transaction records stored in the transaction database to determine the exact identity of the person, or infer identifying characteristics of the person. Then, as that person moves around the store, different RFID tag scanners located throughout the store can pick up radio signals from the RFID tags carried on that person and the movement of that person is tracked based on these detections.

In another embodiment, without having any prior records of individuals and their purchase records, a person carrying RFID-tagged items can be scanned to identify a collection of items that the person is carrying, based on the non-unique product information stored by the RFID tag. The present invention assigns a tracking number to that person based on the collected RFID tag information, and the tracking number is used to track the person's movement. In this embodiment, the exact identity (i.e., name, address, etc.) is not determined, but the person is still tracked based on their association with the collected non-unique RFID tag information.

In these embodiments, the tracking information can be used to provide targeted advertising to the person as the person roams through the store, or to analyze and improve existing store systems, such as the physical layout of the store, advertisement displays in the store, customer service systems in the store, lighting and other environmental settings in the store system, etc.

**Jones ("Working Without Wires," *Industrial Distribution*, p. M6, M8-M9, August 1999)**

Jones ("Working Without Wires," *Industrial Distribution*, p. M6, M8-M9, August 1999) (hereinafter "Jones") teaches the general concept of using RFID tags to track the spending and purchasing habits of specific consumers. In particular, the Examiner relies on the teaching of Jones regarding "loyalty cards" that specifically identify particular customers by some form of unique identifier (e.g., their account number) so that the particular customer can obtain, for example, instant credit authorization at a gasoline pump.

**U.S. Patent No. 5,995,015 to DeTemple et al.**

U.S. Patent No. 5,995,015 to DeTemple et al. ("DeTemple") teaches a system for communicating between a store location and locations in the aisles of a retail facility. In particular, shopping carts are equipped with transmitters that uniquely identify the cart and track the path of the cart through the store. When a user of the cart ends the shopping trip at the Point-of-Sale (POS) terminal of the store, the items in the cart can be correlated with the path taken by the shopping cart in the store. The customers have customer cards which uniquely identify them as being a particular customer, allowing the purchase made by the customer to be associated with the particular customer, using the unique identifier.

**The Claimed Invention is not Obvious in View of the Cited References**

As set forth in the MPEP:

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings.

MPEP 2143

Independent claim 1 includes the collection of product information from RFID-tagged items carried on a particular person, said product information comprising non-unique identification information. This non-unique identification information is correlated with transaction information associated with a plurality of persons, and based on the correlation, identifying characteristics associated with a particular person are inferred. In a more specific embodiment claimed in claim 6, the non-unique identification includes an SKU number associated with a product. Each of the other claim sets include essentially similar limitations.

A significant point of divergence between the claimed invention and Jones is Jones' use of unique identification information for identifying particular people. Specifically, the teachings of Jones require that the information be unique so that a particular user's credit authorization information can be used to the exclusion of any other persons credit authorization information. Nothing in Jones teaches or suggests the use of non-unique identification information pertaining to products or particular RFID tags to enable the inferring of identifying characteristics of a particular person.

Likewise, DeTemple contains no such teaching or suggestion. DeTemple requires a unique identifier (the unique identifier of the shopping basket and the unique customer identity card carried by the customer) in order to be able to track the path of a shopping cart and reveal information regarding the shopping habits of a particular specifically identified individual. Since neither Jones nor DeTemple teach or suggest the claimed features found in each claim pending in the present application, the claimed invention patentably defines over the combination of Jones and DeTemple proposed by the Examiner.

In view of the lack of teaching or suggestion in the cited references of elements claimed in each of the pending claims, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims under 35 U.S.C. § 103.

### **Conclusion**

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.


**PATENT**  
**Application No. 09/847,889**

**Docket No. RSW920010017US1**  
**Page 15**

The Commissioner is hereby authorized to charge any fees associated with this communication to Deposit Account No. 09-0461.

Respectfully submitted

9/1/05  
Date

  
\_\_\_\_\_  
Mark D. Simpson, Esquire  
Registration No. 32,942

SYNNESTVEDT & LECHNER LLP  
2600 ARAMARK Tower  
1101 Market Street  
Philadelphia, PA 19107

Telephone: (215) 923-4466  
Facsimile: (215) 923-2189